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REMARKS

Applicant's Agent would like to thank the Examiner for his time in discussing claim 1 and the current Office Action in a telephone interview on October 27, 2004.

Regarding the claims:

- Claims 1, and 4-21 are pending; claims 18-20 have been allowed; claims 1, 4, 7, 8, and 17 have been rejected; claims 5, 6, 9-16, and 21 have been objected to; and
- Independent claims 1, 17-18, and 20, and dependent claims 7-8, 12, and 16 have been amended to clarify Applicant's invention. Claims 7-8, 16, 18, and 20 have been amended to correct informalities and or errors of a typographical nature only.

Though not conceding to the Examiner's position, Applicant has amended independent claims 1, 17, and dependent claim 8 to better clarify Applicant's present invention. Reconsideration and further examination of all claims 1, and 4-21 is respectfully requested.

Support for Applicant's clarifications and amendments can be found throughout Applicant's specification with specific references, as necessary, noted in the remarks that follow.

OFFICE ACTION ITEM 1**EXAMINER'S REJECTIONS UNDER 35 USC § 112**

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The Examiner rejected dependant claim 8 under 35 U.S.C. § 112, second paragraph, *'as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention ... [as] there is no antecedent for the "control system having a microcontroller"...(emphasis added)'* (Office Action page 2 paragraph 1). Applicant has amended dependent claim 8 to perfect antecedent basis for *'the control system further comprising a microcontroller'* (dependent claim 8).

With respect to dependent claim 8, Applicant contends with amendments to amended independent claim 1 from which dependent claim 8 depends, and Applicant's clarification, dependent claim 8 includes patentable, novel, and non-obvious features in view of the art disclosed by the cited references, and is allowable as ultimately depending on an allowable claim. Applicant requests that the Examiner remove the rejection and allow dependent claim 8.

OFFICE ACTION ITEM 2

EXAMINER'S REJECTION OF CLAIMS 1, 4, 7, AND 17 UNDER 35 USC § 102(b)

The Examiner rejected claims 1, 4, 7, and 17 under 35 USC § 102(b) as being anticipated by Van Ross 5,826,568 ('568) (Office Action page 2 paragraph 4).

Applicant contends that Applicant's present invention includes features and or advantages that are patentable, novel, and non-obvious in view of the art disclosed by the cited references. One such feature is how Applicant transitions a pinch plate between fast-speed and off-speed pitch positions while maintaining pitched ball accuracy, without changing pitching machine wheel speed.

Applicant has amended independent claims 1, and 17 to clarify the operation of Applicant's positioning actuator. More specifically, Applicant has clarified how

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Applicant's positioning actuator, being operationally related to a pinch plate, transitions the pinch plate between a fast-speed pitch dynamics position, and an off-speed pitch position.

In addition, Applicant has amended independent claims 1, and 17 to clarify, that in transitioning the pinch plate between fast-speed and off-speed pitch positions, Applicant also, in the off-speed pitch position, elevates the trajectory angle of the pinch plate causing the pitch release point to be elevated. In this regard, the elevated pitch release point compensates for a decrease in off-speed pitched ball velocity. Such compensation in turn results in the off-speed pitched ball maintaining pitch ball accuracy. In other words, the accuracy of the pitch location of the off-speed pitch is maintained with respect to the batter and compared to the pitch location of the fast-speed pitch. This, in part, enables Applicant's present invention to freely transition between fast-speed and off-speed pitches while maintaining pitched ball accuracy, without changing pitching machine wheel speed. Applicant teaches this feature throughout Applicant's specification, including in Applicant's specification on page 11 lines 22-26.

With respect to Van Ross, Van Ross does not teach or suggest Applicant's use of a positioning actuator to transition a pinch plate between a fast-speed and off-speed pitch position, as clarified by Applicant. In addition, Van Ross, does not teach or suggest changing pinch plate trajectory and or modifying the pitch release point to maintain pitched ball accuracy, without changing pitching machine wheel speed as taught and claimed by Applicant.

Applicant's amended independent claims 1 and 17, with clarifications highlighted, are shown below. Support for Applicant's amendments and clarifications can be found

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throughout Applicant's specification, including in Applicant's specification on page 11 lines 22-26.

Applicant's independent claim 1:

1. (Currently amended): A pitch dynamics device comprising:

a pinch plate, said pinch plate is movably attached to a pitching machine; and

a positioning actuator operationally connected with said pinch plate, said positioning actuator positions said pinch plate effectuating control of the pitch dynamics of a pitched ball from said pitching machine, without changing said pitching machine pitching wheel speed, by transitioning said pinch plate between:

a mostly horizontal position, at a minimum distance from said pitching machine pitching wheel, effectuating the throwing of said pitched ball with fast-speed pitch dynamics; and

an angled position, slowing pitch speed by decreasing the amount of pinch between said pinch plate and said pitching machine pitching wheel and moving the pitch release point to an elevated trajectory, to maintain said pitched ball accuracy, effectuating the throwing of said pitched ball with off-speed pitch dynamics.

Applicant's Independent claim 17:

17. (Currently amended): A method of utilizing a pitch dynamics device to change pitch dynamics of pitching machine pitched balls, said method comprising:

a) loosening a pinch plate, said pinch plate being movably attached to a pitching machine;

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b) aligning selectively said pinch plate, by way of a positioning actuator, said positioning actuator being operationally connected with said pinch plate, said pinch plate effectuates control of the pitch dynamics of a pitched ball from said pitching machine, **without changing said pitching machine pitching wheel speed, by transitioning said pinch plate between:**

- i) **a mostly horizontal position** at a minimum distance from said pitching machine pitching wheel, causing said pitching machine to throw said pitched ball with fast-speed pitch dynamics; and
 - ii) **an angled position** slowing pitch speed by decreasing the amount of pinch between said pinch plate and said pitching machine pitching wheel and moving the pitch release point to an elevated trajectory, **to maintain said pitched ball accuracy**, causing said pitching machine to throw said pitched ball with off-speed pitch dynamics; and
- c) securing said pinch plate in preparation of throwing said pitched ball.

Applicant contends that in view of the aforementioned amendments and clarifications, amended independent claims 1, and 17 are patentable, novel, and non-obvious in view of the art disclosed by the cited references and request that the Examiner remove the rejection(s) and allow amended independent claims 1, and 17.

With respect to dependent claims 4-16, and 21, Applicant contends with amendments to amended independent claims 1 and 17 from which dependent claims 4-16, and 21 depend, and Applicant's clarifications, that dependent claims 4-16, and 21 include patentable, novel, and non-obvious features in view of the art disclosed by the

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cited references, and are allowable as ultimately depending on an allowable claim.
Applicant requests that the Examiner remove the rejection(s) and or objection(s) and
allow dependent claims 4-16, and 21.

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CONCLUSION

Applicant respectfully requests reconsideration and further examination of all claims 1, and 4-21. Applicant submits that in view of the amendments and remarks set forth above, this application is in condition for allowance and requests early notification to this effect.

Respectfully Submitted,



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I hereby certify that this correspondence is being transmitted by fax to the United States Patent and Trademark Office at phone number (703) 872-9308 on November 5, 2004
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